FEDERAL COMMUNICATIONS COMMISSION
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FEB 2 5 2010

Russell C. Powell, Esq
King Street Station I, Suite 600
1800 Diagonal Road
Alexandria Virginia 22314

In re: Matthew Provenzano
KYND(AM), Cypress, Texas
Facility Identification No. 40696
BP-20081203AEL

Dear Mr. Powell:

This letter is in reference to the above-captioned minor change application filed by Matthew Provenzano to add 2 watts nighttime power using a 22.9 meter Valcom antenna on the rooftop of a building in Houston, Texas.

A preliminary review of the application reveals that the nighttime proposal is defective as it is intended to serve Houston, Texas, not Cypress, Texas. We note that even though a nighttime secondary operation of a Class D station is not required to meet the coverage requirements set forth in Section 73.24, it must provide some nighttime service to the community of license. The proposed nighttime operation provides no service to Cypress. In addition, the analysis concerning Environmental Protection per Item 11 of FCC Form 301 in accordance with 47 C.F.R. Section 1.1307 is defective.[1]

Accordingly, pursuant to Section 0.283 of the Commission's rules, the application File No. BP-20081203AEL is DISMISSED as unacceptable for filing.

Sincerely,

Son Nguyen
Supervisory Engineer
Audio Division
Media Bureau

cc: Matthew Provenzano, Licensee
Robert Morrow, Technical Consultant

[1] In the Environmental showing the applicant states "...to the best of the applicant's knowledge, the proposed antenna tower is not located in wetland, wilderness area..." which is not a complete compliance statement. For further information concerning compliance with the environmental issue, please review the attached worksheet.